

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1492**

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**Introduced by Assembly Member Bonnie Lowenthal**  
**(Coauthor: Assembly Member Lieu)**

February 27, 2009

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~~An act to amend Section 40000.15 of, and to add Section 23126 to,~~  
*An act to add Section 23126 to the Vehicle Code, relating to vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1492, as amended, Bonnie Lowenthal. Vehicles: wireless telephones and communication devices.

(1) Existing law generally prohibits a person from driving a motor vehicle while using a wireless telephone unless the telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving. A violation of the Vehicle Code generally is an infraction.

This bill would prohibit a person from using a wireless telephone or other communication device, as the bill would define that term, during a vehicle stop made by a law enforcement officer for a violation of the Vehicle Code, thereby creating a new infraction. If a law enforcement officer makes a vehicle stop for a violation of the Vehicle Code, the bill would *also* make it ~~a misdemeanor~~ *an infraction* for a person in the vehicle that is stopped to fail to comply with the officer's direction to stop using a wireless telephone or other communication device. The bill would exempt from its provisions a person using a wireless telephone or other communication device for emergency purposes *or to record, tape, or otherwise film anything that occurs during a traffic*

*stop*. By creating ~~a new infraction and a new misdemeanor~~ *new infractions*, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 23126 is added to the Vehicle Code, to  
2 read:

3 23126. (a) If a law enforcement officer makes a vehicle stop  
4 for a violation of this code, a person in the vehicle shall not use a  
5 wireless telephone or other communication device while the vehicle  
6 is stopped.

7 (b) If a law enforcement officer makes a vehicle stop for a  
8 violation of this code, it is ~~a misdemeanor~~ *an infraction* for a person  
9 in the vehicle that is stopped to fail to comply with the officer's  
10 direction to stop using a wireless telephone or other communication  
11 device.

12 (c) This section does not apply to a person using a wireless  
13 telephone or other communication device for emergency purposes,  
14 including, but not limited to, an emergency call to a law  
15 enforcement agency, health care provider, fire department, or other  
16 emergency services agency or entity.

17 (d) *This section shall not prohibit a person from using a wireless*  
18 *telephone or other communication device to record, tape, or*  
19 *otherwise film anything that occurs during a traffic stop.*

20 ~~(d)~~

21 (e) For purposes of this section, "communication device" means  
22 a device that enables a person to communicate at the time of the  
23 stop with a person outside of the vehicle.

24 ~~SEC. 2. Section 40000.15 of the Vehicle Code is amended to~~  
25 ~~read:~~

26 ~~40000.15. A violation of any of the following provisions shall~~  
27 ~~constitute a misdemeanor, and not an infraction:~~

Subdivision (g), (j), (k), (l), or (m) of Section 22658, relating to unlawfully towed or stored vehicles.

Sections 23103 and 23104, relating to reckless driving.

Section 23109, relating to speed contests or exhibitions.

Subdivision (a) of Section 23110, relating to throwing at vehicles.

Subdivision (b) of Section 23126, relating to failing to comply with a law enforcement officer's direction to stop using a wireless telephone or other communication device.

Section 23152, relating to driving under the influence.

Subdivision (b) of Section 23222, relating to possession of marijuana.

Subdivision (a) or (b) of Section 23224, relating to persons under 21 years of age knowingly driving, or being a passenger in, a motor vehicle carrying an alcoholic beverage.

Section 23253, relating to directions on toll highways or vehicular crossings.

Section 23332, relating to trespassing.

Section 24002.5, relating to unlawful operation of a farm labor vehicle.

Section 24011.3, relating to vehicle bumper strength notices.

Section 27150.1, relating to sale of exhaust systems.

Section 27362, relating to child passenger seat restraints.

Section 28050, relating to true mileage driven.

Section 28050.5, relating to nonfunctional odometers.

Section 28051, relating to resetting odometers.

Section 28051.5, relating to devices to reset odometers.

Subdivision (d) of Section 28150, relating to possessing four or more jamming devices.

SEC. 3.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.